

AMENDED IN SENATE MAY 3, 2006
AMENDED IN SENATE APRIL 17, 2006
AMENDED IN SENATE APRIL 5, 2006

SENATE BILL

No. 1545

Introduced by Senator Poochigian
(Coauthors: Senators Battin, Cox, and Margett)
(Coauthors: Assembly Members Benoit, Bogh, Cogdill, Daucher,
DeVore, Shirley Horton, Karnette, La Suer, Mountjoy, Nakanishi,
and Spitzer)

February 23, 2006

An act to add Section 12022.52 to the Penal Code, relating to
firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 1545, as amended, Poochigian. Firearms.

Existing law makes it an offense to carry a concealed firearm, as specified. Existing law imposes various penalties for this offense, based on prior criminal history and other circumstances.

This bill would impose an additional and consecutive term of ~~10~~ *one, 2, or 3* years in state prison upon a person who was prohibited from possessing a firearm because of a previous felony conviction, and who is convicted of another felony related to carrying a concealed weapon or loaded firearm, if specified additional circumstances exist.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12022.52 is added to the Penal Code, to
2 read:

3 12022.52. (a) Notwithstanding any other provision of law,
4 any person prohibited from possessing a firearm because of a
5 previous felony conviction, upon conviction for violation of
6 Section 12025 or 12031, shall be punished by an additional and
7 consecutive term of ~~10 years in state prison~~ *one, two, or three*
8 *years in state prison, and the court shall impose the middle term,*
9 *unless there are circumstances in aggravation or mitigation,* if
10 any of the following circumstances are pled and proven:

11 (1) The offender was previously convicted of any one of the
12 following:

13 (A) Felonious possession of a firearm.

14 (B) Felonious manufacture, sale, possession for sale, or
15 transport of a controlled substance, *with the exception of a*
16 *violation of Section 11357, 11358, 11359, or 11360 of the Health*
17 *and Safety Code.*

18 (C) Felonious assault or battery of a peace officer.

19 (D) A violent felony.

20 (E) A felony gang offense that constitutes a violation of
21 Section 186.22.

22 (2) If, at the time of the offense that resulted in conviction for
23 violation of Section 12025 or 12031, any of the following:

24 (A) The offender was on *felony* probation, parole, free on bail,
25 awaiting sentencing, or subject to a felony arrest warrant.

26 (B) The offender was in felonious possession of a controlled
27 substance.

28 (C) The offender feloniously assaulted or battered a peace
29 officer by means other than a firearm.

1 ~~(b) A person sentenced to a term of imprisonment pursuant to~~
2 ~~this section shall not be awarded credits that exceed those~~
3 ~~permissible in subdivision (i) of Section 12022.53.~~

4 ~~(e)~~

5 (b) If the imposition of an enhanced penalty authorized by this
6 section would constitute an impermissible dual use of facts, the
7 provisions shall be applied so as to maximize the sentence.

8 SEC. 2. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the
13 penalty for a crime or infraction, within the meaning of Section
14 17556 of the Government Code, or changes the definition of a
15 crime within the meaning of Section 6 of Article XIII B of the
16 California Constitution.